

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
3

4 TESSERA, INC., No. C 05-4063 CW

5 Plaintiff,

6 v.

7 ADVANCED MICRO DEVICES, INC.;  
8 SPANSION, LLC; SPANSION, INC.;  
SPANSION TECHNOLOGY, INC.;  
ADVANCED SEMICONDUCTOR  
9 ENGINEERING, INC.; ASE (U.S.),  
INC.; CHIPMOS TECHNOLOGIES, INC.;  
10 CHIPMOS U.S.A., INC.; SILICONWARE  
PRECISION INDUSTRIES CO., LTD.;  
11 SILICONWARE USA, INC.;  
STMICROELECTRONICS N.V.;  
STMICROELECTRONICS, INC.; STATS  
12 CHIPPAC, INC.; STATS CHIPPAC  
13 (BVI), INC.; and STATS CHIPPAC,  
LTD.,

ORDER GRANTING  
JOINT MOTION FOR  
RELIEF FROM THE  
COURT'S AUGUST 10,  
2012 ORDER TO  
ALLOW PARTIES TO  
FILE UNDER SEAL  
(Docket No. 1041)

14 Defendants.  
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16 On July 19, 2012, Defendants Advanced Semiconductor  
17 Engineering, Inc. and ASE (U.S.) Inc. (collectively, ASE) and  
STATS ChipPAC, Inc., STATS ChipPAC (BVI) Limited and STATS  
19 ChipPAC, Ltd. (collectively, STATS ChipPAC) moved to file under  
20 seal various exhibits attached to the declarations of Ramy E.  
21 Hanna, Monica Eno, Flynn Carson and Justin Lewis submitted in  
22 support of their motion for summary judgment related to Plaintiff  
23 Tessera, Inc.'s breach of contract claims. Defendants also sought  
24 to seal their unredacted motion for summary judgment. Defendants  
25 represented that they and Plaintiff Tessera, Inc. had each  
26 designated some of these exhibits as confidential. ASE, STATS  
27  
28

1 ChipPAC and Tessera all filed declarations in support of the  
2 motion to seal. See Docket Nos. 1010-1, 1010-2 and 1023.

3 On August 10, 2012, the Court denied the motion to seal,  
4 finding that in each of their declarations, the parties had made  
5 only conclusory statements that they considered the information  
6 confidential without setting forth specific facts establishing  
7 that the documents are sealable. Docket No. 1033. The Court  
8 directed Defendants to file the declarations, their supporting  
9 exhibits and the unredacted memorandum of law in the public docket  
10 within three days thereafter.

11 On August 13, 2012, Defendants filed a redacted motion for  
12 summary judgment and some, but not all, of the supporting  
13 materials at issue in the Court's August 10, 2012 Order in the  
14 public record. Docket No. 1042. At the same time, Defendants and  
15 Tessera jointly filed the instant motion, seeking relief from the  
16 prior order and leave to file under seal a much smaller subset of  
17 the documents that Defendants sought to seal in their original  
18 motion. Docket No. 1041. STATS ChipPAC also filed a declaration  
19 in support of the motion. Docket No. 1052. In the renewed  
20 motion, the parties seek to seal the entirety of Exhibit A to the  
21 Carson declaration and Exhibit 1 to the Hanna declaration,  
22 portions of Exhibit D to the Carson declaration, Exhibit A to the  
23 Lewis declaration and Exhibits M and R to the Eno declaration and  
24 portions of their motion for summary judgment that refer to the  
25 information contained in these exhibits.

26 The parties seek to seal court records connected to a  
27 dispositive motion. To establish that the documents are sealable,  
28 the party who has designated them as confidential "must overcome a

1 strong presumption of access by showing that 'compelling reasons  
2 supported by specific factual findings . . . outweigh the general  
3 history of access and the public policies favoring disclosure.'" 4 Pintos v. Pac. Creditors Ass'n, 605 F.3d 665, 679 (9th Cir. 2010)  
5 (citation omitted). Cf. id. at 678 (explaining that a less  
6 stringent "good cause" standard is applied to sealed discovery  
7 documents attached to non-dispositive motions). This cannot be  
8 established simply by showing that the document is subject to a  
9 protective order or by stating in general terms that the material  
10 is considered to be confidential, but rather must be supported by  
11 a sworn declaration demonstrating with particularity the need to  
12 file each document under seal. Civil Local Rule 79-5(a).

13 The parties represent that Exhibit A to the Carson  
14 declaration and Exhibit 1 to the Hanna declaration contain  
15 Tessera's license agreements with ASE and ChipPAC. Although  
16 Tessera has not filed a declaration in support of this renewed  
17 motion to seal, other than its original conclusory declaration,  
18 the parties point out that the Court has previously granted  
19 requests to seal Tessera's similar license agreements with other  
20 parties in this and other cases, and aver that the harm that would  
21 be caused disclosure of the instant license agreements would be  
22 the same as the harm resulting from disclosure of the other  
23 license agreements. Mot. at 4. See, e.g., Docket No. 1034;  
24 Docket Nos. 26, 96, Powertech Technology, Inc. v. Tessera, Inc.,  
25 Case No. 11-6121. In support of an earlier motion to seal in this  
26 case, Tessera submitted a declaration stating that similar license  
27 agreements contain "information about Tessera's licensing of its  
28 patented semiconductor packaging technology" and that "[p]ublic

1 disclosure of non-public details of that program would jeopardize  
2 Tessera's ability to continue to license its technology  
3 successfully," which is "critical to its business." MacDonald  
4 Decl., Docket No. 1025 ¶¶ 3, 5. Accordingly, the Court finds that  
5 the parties have established that Exhibit A to the Carson  
6 declaration and Exhibit 1 to the Hanna declaration are sealable.

7       STATS ChipPAC represents that portions of Exhibit D to the  
8 Carson declaration, Exhibit A to the Lewis declaration and  
9 Exhibits M and R to the Eno declaration are sealable because they  
10 "reference or detail the amount of royalty payments made by STATS  
11 ChipPAC and/or royalty rates allegedly owed by STATS ChipPAC  
12 pursuant to its TCC License Agreement with Tessera." McNaughton  
13 Decl. ¶¶ 4-5. See also id. at ¶¶ 6-7. It states that the  
14 "semiconductor chip assembly business is a highly competitive  
15 field and financial information such as licensing royalty rates  
16 and royalty payments are not shared with competitors." Id. at  
17 ¶ 8. "STATS ChipPAC frequently negotiates licensing arrangements  
18 of various kinds in which the amount of royalties it will pay to  
19 another, or that another company will pay to it, is an important  
20 deal term." Id. It believes that it will be disadvantaged if the  
21 information it seeks to seal were publicly disclosed, because  
22 future "potential licensees and licensors" could use the  
23 information "to their competitive advantage" in future  
24 negotiations. Id. Having reviewed the portions of these exhibits  
25 that STATS ChipPAC seeks to seal, the Court finds that it has  
26 established that they are sealable.

27       STATS ChipPAC further seeks to seal another portion of  
28 Exhibit R to the Eno declaration, a record of a wire transfer made

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1 by STATS ChipPAC which contains its "confidential banking and  
2 customer information," public disclosure of which could put its  
3 financial accounts "at risk of access or mishandling." Id. at  
4 ¶ 7, 9. The Court notes that the information STATS ChipPAC seeks  
5 to seal is its bank account number and customer identification  
6 number and finds that it has established compelling reasons to  
7 seal this information.

8 For the reasons set forth above, the Court grants the  
9 parties' motion (Docket No. 1041). Within three days of the date  
10 of this Order, Defendants shall electronically file under seal  
11 unredacted versions of Exhibits A and D to the Carson declaration,  
12 Exhibit 1 to the Hanna declaration, Exhibit A to the Lewis  
13 declaration, Exhibits M and R to the Eno declaration and their  
14 motion for summary judgment.

15 The Court warns the parties that, in the future, they are  
16 required to comply with the terms of Local Rule 79-5. All motions  
17 to seal "must be narrowly tailored to seek sealing of only  
18 sealable material." Local Rule 79-5(a). Further, the party  
19 designating the material as sealable must file a declaration in  
20 support of the relevant motion to seal, establishing that the  
21 specific material at issue is in fact sealable. See, e.g., Local  
22 Rule 79-5(b), (c), (d).

23 IT IS SO ORDERED.

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25 Dated: 8/20/2012

  
CLAUDIA WILKEN  
United States District Judge

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